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**FISCAL IMPACT STATEMENT**

**LS 7661**

**BILL NUMBER:** HB 1808

**NOTE PREPARED:** Feb 22, 2007

**BILL AMENDED:** Feb 19, 2007

**SUBJECT:** Voting Systems.

**FIRST AUTHOR:** Rep. Pierce

**FIRST SPONSOR:**

**BILL STATUS:** 2<sup>nd</sup> Reading - 1<sup>st</sup> House

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill has the following provisions:

***No Excuse Absentee Voting-*** The bill permits a voter who is qualified to vote in person to vote by absentee ballot. The bill removes all other qualifications for a voter to vote by absentee ballot except for a voter with disabilities who is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope. (Such a disabled voter is currently required to vote before an absentee voter board.)

***Examination of Voter's Votes-*** The bill requires that a voting system purchased, leased, or lease purchased after April 30, 2007, must permit a voter to examine the paper record of the voter's votes to verify the voter's votes.

***Hand Count Audits of General Election-*** The bill requires an audit of certain elections held during a general election to hand count certain statistical samples of votes cast during the election.

***Voting By Mail-*** The bill requires all elections be conducted by mail beginning with elections in 2012.

***Penalty Provision-*** The bill provides that certain actions relating to vote fraud committed after December 31, 2011 are Class C felonies. The bill provides that a person convicted of any of these vote fraud crimes may be fined not more than \$125,000.

***Mail Transition Advisory Committee-*** The bill establishes the vote by Mail Transition Advisory Committee (MTAC) to study the transition to a vote by mail system and propose necessary legislation to accomplish the transition.

**Obsolete Election Code Provisions-** The bill provides for the expiration of several chapters of the election code that will be obsolete under a vote by mail system.

**Effective Date:** July 1, 2007.

**Explanation of State Expenditures:** (Revised) *Voting By Mail-* The Election Division is currently responsible for delivery of absent uniformed service and oversees voters absentee ballots. This provision should minimally affect Election Division expenditures.

**Hand Count Audits of General Election-** The Election Commission would be required to conduct audits of elections for Presidential electors and at least one election for state office. Audits would have to be conducted after each general election. The Commission would have to issue a report on findings from the audits.

The cost to conduct audits would depend on the selection sample size, the number of offices audited, and whether audits could be done within existing staff or would require contracting with a temporary or specialized election service.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

**Background-** The Office of Secretary of State reverted \$149,755 to the General Fund at the end of FY 2006. The Indiana Election Commission, under which the Election Division operates, reverted \$55,072 to the General Fund at the end of FY 2006. The Election Division had printing costs of about \$23,116 in FY 2006. The Division had 11 full-time employees and three vacancies as of October 3, 2006.

**Penalty Provision-** A Class C felony is punishable by a prison term ranging from 2 to 8 years, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,734 in FY 2006. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,139. The average length of stay in DOC facilities for all Class C felony offenders is approximately two years.

**Mail Transition Advisory Committee-** The MTAC would have twelve members: eight legislators and four county clerk's. The MTAC would operate under Legislative Council policies governing study committees. Under the most recent Legislative Council Resolution, a 12 member committee would have received an operating budget of \$9,500. The fund affected would be the state General Fund via appropriation to the Legislative Council.

**Explanation of State Revenues:** (Revised) **Penalty Provision-** If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C felony is \$10,000. **(Under this bill, the maximum fine for a Class C felony for election fraud would be \$125,000.)** Criminal fines are deposited in the Common School Fund. If the

case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

**Explanation of Local Expenditures:** (Revised) *No Excuse Absentee Voting*- This provision would increase the number of absentee ballots produced. The specific impact of this provision would depend on the additional number of absentee ballots printed by each county election board.

*Background*- During the 2004 general election 260,550 voters voted via absentee or about 10.4% of total voters voting. The 2006 primary election saw 61,345 voters voting absentee or about 7.2% of total voters voting.

*Voting By Mail*- This provision would have an indeterminable impact on local expenditures. The provision would be effective beginning with the 2012 primary election.

*Potential Savings*- Voting by mail would render polling facility rental, precinct election board member per diem, meals, and maintaining large stocks of voting systems obsolete. The potential savings is indeterminable. However, there would no longer be need to staff polling places in the state's 5,604 precincts.

-A precinct has the following election officers:

Type of Officer	Number
Inspector	1
Judge	2
Poll Clerk	2
Sheriff	2
Asst. Poll Clerk	2 (Optional)

-The ability to provide estimates on the savings from poll worker per diem is culled by the unknown number of persons that staff precinct election boards (accounting for personnel shortages) and the various rates of per diem which are set by the counties.

*Potential Costs*- County election boards would have to produce enough ballots for the number of active voters in the state. Direct Recording Electronic (DRE) counties may need to purchase a minimal number of optical-scan voting systems if they choose to count ballots by scanner. However, some DRE counties currently employ a small number of optical-scanners for absentee ballots. Counties would have the option of using paper ballots instead of ballot cards (optical-scan).

-The Secretary of State reports that there are 3,907,800 *active* voters (voters that voted in at least the last two general elections) in the state. As an example, to provide optical-scan ballots for 3.9 M voters at \$0.32 per ballot would require expenditures of approximately \$1.3 M per election statewide.

-The bill would require both a return envelope, with first-class postage affixed, and instructions to be mailed with the ballots. Each county would be allowed to appoint at least two ballot counters who would be entitled to a per diem established by county executives.

***Examination of Voter's Votes-*** This provision could affect future voting system purchases or leases if systems were required to provide a definite paper trail. This provision would affect voting systems purchased or leased after April 30, 2007.

***Penalty Provision-*** If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** (Revised) ***Penalty Provision-*** If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

**State Agencies Affected:** Department of Correction; Election Commission; Legislative Council, Legislative Services Agency.

**Local Agencies Affected:** Counties; trial courts, local law enforcement agencies.

**Information Sources:** Indiana Election Division; Indiana Sheriffs' Association, Department of Correction.

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